

Notice of Allowability

Application No.

09/844,058

Examiner

Ula C Ruddock

Applicant(s)

COOPER ET AL.

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/30/04.
2. ☒ The allowed claim(s) is/are 1-3, 5-9, 37-39, 47-49 and 51-58.
3. ☒ The drawings filed on 27 April 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 3/19/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 12/13/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 30, 2004, has been entered.
2. The Examiner has carefully considered Applicant's amendment and accompanying remarks filed September 30, 2004. All rejections have been overcome.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gerald Kita on December 9th, 2004.

The application has been amended as follows:

- **Cancel claims 36, 40-46, 50, and 59-70
- **Amend claim 37, line 1, by deleting "36" and inserting -1—
- **Amend claim 51, line 1, by deleting "50" and inserting -47—
- **Amend claim 1 as follows:

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Claim 1 (Currently Amended) A reinforcement for resisting flexure of a cementitious board having opposed faces, comprising: an open mesh of high modulus of elasticity strands, wherein the high modulus of elasticity strands comprise E-glass, and wherein the alkali resistant thermoplastic material comprises a core sliver of thermoplastic fibers commingled with the high modulus of elasticity strands, and a plurality of sheath thermoplastic fibers which cover the core sliver thermoplastic fibers and the high modulus of elasticity strands; wherein the strands are covered by an alkali-resistant thermoplastic material adapting the open mesh for embedding in the cementitious board; the strands extending across one another to define a mesh thickness; wherein the open mesh is adapted with the mesh thickness for two embedded layers in the cementitious board; and wherein the open mesh is adapted with the mesh thickness for positioning each embedded layer about 1/32 inch to about 1/16 inch from a corresponding one of the opposed faces to avoid spalling, while each embedded layer is spaced from a neutral axis of flexure of the cementitious board to resist flexure of the cementitious board; wherein said alkali-resistant thermoplastic material is co-extruded with said strands to provide a substantially continuous coating of said alkali-resistant thermoplastic material about said strands; and wherein said alkali-resistant thermoplastic material is selected from the group consisting of polyolefins and olefin copolymers.

**Amend Claim 47 as follows:

Claim 47 (Currently Amended) A reinforcement for resisting flexure of a cementitious board having opposed faces, comprising: an open mesh of high modulus of elasticity strands, respective coatings on the strands, wherein the respective coatings comprise an alkali-resistant material adapting the open mesh for embedding in the cementitious board and wherein the respective

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coatings comprise a fused or sintered core sliver of thermoplastic fibers commingled with the high modulus of elasticity strands, and a fused or sintered plurality of sheath thermoplastic fibers which cover the core sliver thermoplastic fibers and the high modulus of elasticity strands; and the strands extending across one another to define a mesh thickness [wherein the open mesh having the mesh thickness is adapted for two embedded layers in the cementitious board; and wherein the open mesh having the mesh thickness is adapted for positioning each embedded layer about 1/32 inch to about 1/16 inch from a corresponding one of the opposed faces to avoid spalling, while each embedded layer is spaced from a neutral axis of flexure of the cementitious board to resist flexure of the cementitious board].

**Please insert the following before the first line of the specification:

"This application is a divisional of copending U.S. Application 09/206,636 filed on December 7, 1998, now US Patent 6,254,817."

Reasons for Allowance

4. Claims 1-3, 5-9, 37-39, 47-49, and 51-58 are allowed.
5. The following is an examiner's statement of reasons for allowance: all rejections have been overcome by Applicant's response and the present Examiner's amendment. No prior art was found to teach or suggest a reinforcement material having the claimed limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR *UCR*

Ula Ruddock
ULA RUDDOCK
PRIMARY EXAMINER